

## BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

### IN RE: ZEA, LLC

(Case No. 11310)

A hearing was held after due notice on January 6, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard.

#### Nature of the Proceedings

This is an application for variances from the side yard, rear yard and corner side yard setback requirements.

#### Findings of Fact

The Board found that the Applicant was seeking a variance of 2.5 feet from the ten (10) feet north side yard setback requirement, a variance of 7.6 feet from the ten (10) feet rear yard setback requirement, and a variance of 5.8 feet from the ten (10) feet corner side yard setback requirement for a proposed dwelling. The Applicant has requested that the aforementioned requested variances be granted as they pertain to certain real property located northeast corner of Bunting Avenue and West Virginia Avenue and 450 feet east of Route One (Coastal Highway) and being Lot 1 E in the unincorporated section of Fenwick Island; said property being identified as Sussex County Tax Map Parcel Number 1-34-23.16-329.00. After a hearing, the Board made the following findings of fact:

1. Chris Adamopolous was sworn in to testify on behalf of the Applicant and Richard Berl, Esquire, was present to present on the Applicant's behalf.
2. The Board found that Mr. Berl stated that the Applicant is a family limited liability company owned by the Adamopoulos family.
3. The Board found that Mr. Berl stated that the existing non-conforming dwelling is a very small cottage which is in need of modernization and enlargement.
4. The Board found that Mr. Berl stated that the existing dwelling has been on the site since 1970 and is barely visible over the dune line.
5. The Board found that Mr. Berl stated that the neighboring structures are much larger than the existing dwelling.
6. The Board found that Mr. Berl stated that the Property is a very small lot as it is only 5,000 square-feet in size.
7. The Board found that Mr. Berl stated that the Property is zoned C-1 Commercial, which allows for duplexes and condominiums as well as single-family dwellings.
8. The Board found that Mr. Berl stated that the Property is in the unincorporated area near Fenwick Island.
9. The Board found that Mr. Berl stated that the proposed dwelling will be in keeping with character of the neighborhood.
10. The Board found that Mr. Berl stated that the proposed dwelling will not encroach any further into the required setbacks than the existing dwelling.
11. The Board found that Mr. Berl stated that the Property only has a neighbor to the north as it is bordered by the Atlantic Ocean, Bunting Avenue, and West Virginia Avenue on the other sides.
12. The Board found that Mr. Berl stated that West Virginia Avenue is a pedestrian access and not an actual road.
13. The Board found that Mr. Berl stated that it is unlikely that the proposed dwelling will have any effect on West Virginia Avenue.
14. The Board found that Mr. Berl stated that other dwellings on neighboring properties are substantially larger than the existing dwelling.

15. The Board found that Mr. Berl stated that the Property is unique due to its size.
16. The Board found that Mr. Berl stated that the proposed dwelling will be a single family dwelling.
17. The Board found that Mr. Berl stated that the building envelope is much smaller than even the existing structure and that the dwelling cannot be modernized without variances being granted.
18. The Board found that Mr. Berl stated that the difficulty was not created by the Applicant.
19. The Board found that Mr. Berl stated that the variances will not alter the character of the neighborhood as there are larger structures in the area.
20. The Board found that Mr. Berl stated that the modern, larger dwellings are worth more than the dwelling on the Property and the proposed dwelling will have no negative effect on property values.
21. The Board found that Mr. Berl stated that there will be no negative impact on the public welfare.
22. The Board found that Mr. Berl stated that the variances will enable reasonable use of the Property.
23. The Board found that Mr. Berl stated that the variances requested are the minimum variances necessary to afford relief.
24. The Board found that Mr. Adamopoulos confirmed, under oath, the statements made by Mr. Berl.
25. The Board found that Mr. Adamopoulos testified that the existing dwelling is approximately 1,200 square-feet and that the proposed dwelling will be approximately 3,000 to 4,000 square-feet in size.
26. The Board found that Mr. Adamopoulos testified that the proposed dwelling is comparable to other structures in the area.
27. The Board found that Mr. Adamopoulos testified that the proposed dwelling will be expanding up from the footprint of the existing building rather than further into the setback areas though the proposed dwelling will be expanding towards Bunting Avenue within the front yard setback area.
28. The Board found that the Applicant submitted pictures of the Property to the Board.
29. The Board found that Rob Witsil, Esquire, appeared on behalf of Janice White and Raymond White, who own Unit B of the neighboring property to the north of the Property, and Robert DeMajistre and Patricia DeMajistre who own Unit A of the neighboring property to the north of the Property.
30. The Board found that Mr. Witsil stated that his clients oppose the Application and that other neighbors have contacted him about their opposition to the Application. The Board found that Mr. Witsil submitted exhibits for the Board to review and argued on behalf of his clients.
31. The Board found that Raymond White was sworn in and testified in opposition to the Application. His testimony included a confirmation of statements made by Mr. Witsil.
32. The Board found that no parties appeared in support of the Application.
33. The Board found that two (2) parties appeared in opposition to the Application.
34. The Board tabled its decision on the matter until February 17, 2014.
35. The Board considered and weighed the testimony and evidence presented by the Applicant and by parties in opposition to the Application.
36. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the Application met the standards for granting a variance. The Property is unique. The Property is small and narrow which results in a small building envelope. Other properties in the community are duplexes and condominiums which dwarf the current dwelling on the Property. The variances are necessary to enable reasonable use of the Property. The existing dwelling is 43 years old and is in need of

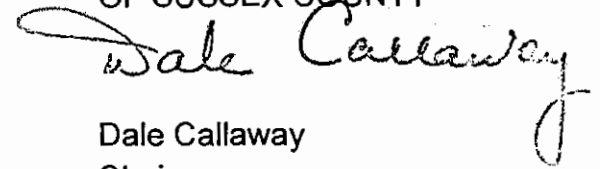
modernization and upgrades which cannot be accomplished without the variances. The difficulty was not created by the Applicant. Rather, the origin of the problems lie in the creation of small lots and the imposition of setbacks after the original dwelling was built. The variances will not alter the essential character of the neighborhood as there are similar sized dwellings in the neighborhood. The proposed dwelling will not be detrimental to the public welfare. The variances sought are the minimum variances necessary to afford relief. The variances sought represent the least modifications of the regulations at issue. The proposed dwelling will not encroach any further into the setback as the existing dwelling.

The Board approved the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application was approved. The Board Members voting to approve the Application were Mr. Dale Callaway, Mr. Jeff Hudson, and Mr. Norman Rickard. Mr. John Mills voted against the Motion to Approve the Application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



Dale Callaway  
Chairman

If the use is not established within one (1)  
year from the date below the application  
becomes void.

Date March 26, 2014